

Report on the

Board of Respiratory Therapy
State of Alabama
Montgomery, Alabama



Department of
Examiners of Public Accounts

50 North Ripley Street, Room 3201
P.O. Box 302251
Montgomery, Alabama 36130-2251

Ronald L. Jones, Chief Examiner

State of Alabama
Department of
Examiners of Public Accounts

Ronald L. Jones
Chief Examiner

Telephone (334) 242-9200
FAX (334) 242-1775

Mailing Address:
P.O. Box 302251
Montgomery, AL 36130-2251

Location:
Gordon Persons Building
50 North Ripley Street, Room 3201
Montgomery, AL 36104-3833

August 15, 2006

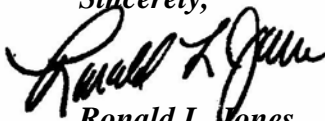
Senator Larry Dixon
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Senator Larry Dixon,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Respiratory Therapy** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Respiratory Therapy**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

Ronald L. Jones,
Chief Examiner

EXAMINERS
Tony Yarbrough
Janet Berry

CONTENTS PAGE

PROFILE.....	1
PURPOSE/AUTHORITY:.....	1
BOARD CHARACTERISTICS:	1
OPERATIONS:.....	2
FINANCIAL INFORMATION	4
SIGNIFICANT ITEMS	4
STATUS OF PRIOR FINDINGS.....	5
ORGANIZATION	6
PERSONNEL	6
PERFORMANCE CHARACTERISTICS	6
SMART BUDGETING.....	8
FINANCIAL INFORMATION	11
SCHEDULE OF FEES	11
TRANSFER TO GENERAL FUND	11
SCHEDULE OF OPERATING RECEIPTS, DISBURSEMENTS, AND BALANCES.....	12
OPERATING RECEIPTS VS OPERATING DISBURSEMENTS (CHART)	12
QUESTIONNAIRES	13
BOARD MEMBER QUESTIONNAIRE	13
LICENSEE QUESTIONNAIRE	16
APPENDICES	19
SMART BUDGETING REPORTS	19
STATUTORY AUTHORITY.....	24
BOARD MEMBERS	35
AGENCY RESPONSE TO SIGNIFICANT ITEMS	36

PROFILE

Purpose/Authority:

The Board of Respiratory Therapy was created by Act 518, *Acts of Alabama 2004* effective May 17, 2004. The purpose of the board is to provide and enforce standards for licensure and regulation of people who serve, act, and practice as respiratory therapists. The board operates under the authority of the *Code of Alabama 1975*, §34-27B-1 through §34-27B-14.

<u>Board Characteristics:</u>	
Members and Selection	<p>Five (5)</p> <p>All members are appointed by the Governor from nominations. Nominations are as follows:</p> <p>The three (3) respiratory therapist members are selected from a list of names submitted by the Alabama Society for Respiratory Therapy;</p> <p>The hospital member is selected from a list of names submitted by the Alabama Hospital Association; and</p> <p>The physician member is selected from a list of names submitted by the Medical Association of Alabama.</p> <p><i>Code of Alabama, 1975</i> §34-27B-5 (a)</p>
Term	<p>Four (4) year staggered terms.</p> <p>No member may serve more than three consecutive full terms.</p> <p><i>Code of Alabama, 1975</i> §34-27B-5 (e).</p>

Qualifications	<ul style="list-style-type: none"> • All must be Alabama residents • Three (3) must be licensed respiratory therapists, • One (1) must be the chief executive officer of a hospital, • One (1) must be an Alabama licensed physician, and a member of at least one of the following: The American Thoracic Society, the American College of Chest Physicians, the American Society of Anesthesiologists, or the American Academy of Pediatrics. <p><i>Code of Alabama, 1975 §34-27B-5 (a)</i></p>
Racial Representation	<p>No specific statutory requirement. One (1) black member</p>
Geographical Representation	<p>No statutory requirement</p>
Consumer Representation	<p>No statutory requirement.</p>
Other Representation	<p>The membership of the board shall be inclusive and reflect the racial, gender, geographical, urban/rural, and economical diversity of the state.</p> <p><i>Code of Alabama, 1975 §34-27B-5 (b)</i></p>
Compensation	<p>None, but members are reimbursed for travel expenses and paid a per diem allowance following the guidelines for state employees.</p> <p><i>Code of Alabama, 1975 §34-27B-5 (g).</i></p>
<u>Operations:</u>	
Administrator	<p>Paula Scout McCaleb, President of Leadership Alliance LLC, Contracted to provide office space and administrative management Contract amount: \$3750.00/month or \$45,000.00/year</p>
Location	<p>7550 Halcyon Summit Drive, Suite 125 Montgomery, AL 36124</p>

Type of License	Respiratory Therapist License (Two-year license) Temporary Respiratory Therapy License (Six month license) As of May 21, 2007 Respiratory Therapist 2,401 Temporary 9 Total Licensees 2,410
Renewal	Licenses expire on November 1 of odd numbered years. <i>Code of Alabama, 1975</i> Section 34-27B-7(c). <u>Administrative Code 798-X-50-.08(1)</u> On-line license renewal was not available at this time this report was prepared. The board expects on-line renewal to become available in August 2007.
Examinations	As a condition of licensure, the board requires every applicant to be already credentialed as a registered respiratory therapist (RRT) or a certified respiratory therapist (CRT), as granted by the National Board for Respiratory Care (NBRC). The NBRC administers its computer based national written and clinical examinations at six (6) Alabama locations. <i>Code of Alabama, 1975</i> § 34-27B-3 (b) (1).
Continuing Education	Twenty-four (24) contact hours of continuing education over the two-year licensure period. <i>Code of Alabama, 1975</i> § 34-27B-4(2) <u>Administrative Code 798-X-8-.01 (5) (a).</u>
Reciprocity	Has authority, but no agreements with other states <i>Code of Alabama, 1975</i> § 34-27B-3(b)(3) <u>Administrative Code 798-X-5-.05</u>
Employees	The board contracts with Leadership Alliance LLC., Paula McCaleb, President, for administrative services.
Legal Counsel	Bettie Carmack, Assistant Attorney General
Subpoena Power	Not included in respiratory therapy practice act

Internet Presence	www.asbrt.alabama.gov The boards' web site contains: <ul style="list-style-type: none"> • Home page with contact information • Board • Rules • Forms • Calendar • Staff • Links • Board Meeting Minutes • License Roster
Attended Board Member Training	Four board members Executive Director
<u>Financial Information:</u>	
Source of Funds	Licensing fees and fines
State Treasury	Yes, Special Revenue Fund 1149
Unused Funds	<p>Currently, funds are retained for the use of the board. After September 30, 2007, any surplus of funds greater than one year's operating expense must be transferred to the state's General Fund.</p> <p><i>Code of Alabama, 1975 § 34-27B-6.</i></p>

SIGNIFICANT ITEMS

- 1. The board's rule authorizing a bad check charge is insufficient.** Board Rule 798-X-5-.15 (2) (e) states that "Statutory charges for returned checks shall be paid by the applicant or licensee." The rule does not state the amount of the charge.

Statutory authority for a bad check charge is contained in the *Code of Alabama 1975*, Section 8-8-15(a), which provides for a bad check charge of not more than the greater of either twenty-five dollars (\$25) or an amount equal to the actual charge by the depository institution for the return of unpaid or dishonored instruments. Section 8-8-15(b) amended the maximum as follows, "Commencing January 1, 1999, the bad check charge in subsection (a) shall increase by one dollar (\$1) per year through January 1, 2003, at which time **the maximum bad check charge shall be thirty dollars (\$30)** [Emphasis added]."

Because the law sets an upper limit but does not set the amount of the charge, the board must set the amount charged. The setting of the charge meets the definition of an administrative rule found in the Administrative Procedure Act. The Administrative Procedure Act in the *Code of Alabama 1975*, Section 41-22-3(9) defines a rule as, “Each agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency...” Further, the Administrative Procedure Act provides in the *Code of Alabama 1975*, Section 41-22-4(b) that, “No agency rule, order, or decision shall be valid or effective against any person or party nor may it be invoked by the agency for any purpose until it has been made available for public inspection and indexed as required by this section and the agency has given all notices required by Section 41-22-5.”

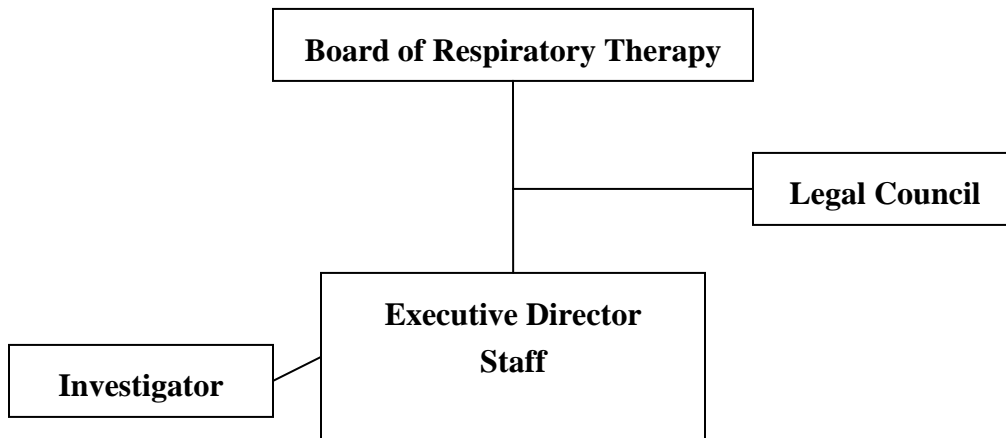
The board’s rule merely restates the statute rather than establishing a bad check charge amount. Upon inquiry by the examiner, the board’s executive director stated that the board has not collected any bad check charge and will not do so until a properly processed rule is in place.

2. **The board has not resolved complaints in a timely manner.** Of the eleven complaints filed since May of 2006, none have been resolved. In August, 2006, the board approved the hiring of an investigator, but a change in legal counsel has further delayed any actions to resolve complaints.
3. **A provision in the board’s law governing transfer of surplus balances to the state’s General Fund is too vague.** The *Code of Alabama 1975*, Section 34-27B-6 provides that, “After the first three full fiscal years from May 17, 2004, if a surplus of funds exist which is *greater than one year’s operating expense*, the funds shall be distributed to the General Fund.” The operating expense varies each year, and the statute does not state which year’s expense applies (past year, present year, average over a number of years, etc.)

STATUS OF PRIOR FINDINGS

All prior findings have been resolved.

ORGANIZATION



PERSONNEL

The board contracts with Leadership Alliance, LLC, represented by Paula McCaleb (President) for administrative services, including the services of an executive director.

The board utilizes the Attorney General's Office for legal services. Bettie Carmack, Assistant Attorney General, is current legal council for the board.

The board contracts with Donald Hiltz, Hiltz Professional Services, for investigative services.

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee - N/A (no employees – administrative and investigative services are acquired under contract with private companies)

Number of Persons per Licensee in Alabama and Surrounding States (as of 5/8/2007)

	Population (Estimate)*	Number of Licensees	Persons per Licensee
Alabama	4,599,030	2,410	1,908
Florida	18,089,888	10,204	1,772
Georgia	9,363,941	4,804	1,949
Mississippi	2,910,540	2,161	1,346
Tennessee	6,038,803	2,066	2,922

* July 1, 2006 Census Bureau Population Estimates Report

Operating Disbursements per Licensee (2005-2006 Fiscal Year) = \$32.96

Notification to Licensees of Board decisions to Amend Administrative Rules

The board complied with the Alabama Administrative Procedures Act in regards to the advertisement of proposed administrative rules. The board advertised in Administrative Monthly for thirty-five days and held public hearings as defined in the Administrative Procedure Act. The board places notice of proposed rules on its Internet website.

Regulation with Other Entities

The board does not regulate in conjunction with other entities. However, one board member is selected from a list of names submitted by the Alabama Hospital Association; and one physician member is selected from a list of names submitted by the Medical Association of Alabama.

Complaints

The *Code of Alabama, 1975*, §34-27B-8 authorizes the board to discipline its licensees. The board has formalized its complaint process in its administrative rules; specifically, rules 798-X-7-.01 through .11 which describe the procedures for documentation, receipt, and investigation of complaints relating to the board's licensees.

Complaint Process

Investigative Phase	<p>The board receives a completed complaint form in the board's office. An investigative file is opened and case number established. Upon receipt, the complainant is notified by mail, verifying receipt of the complaint and explaining the investigative process. Within 30 days of receipt of the complaint, the respondent is written by certified letter notifying that a complaint has been filed, procedure for complaints, and requesting a written response.</p> <p>An investigative committee consisting of one board member (non-voting member), the Assistant Attorney General, the investigator, and the executive director reviews the complaint and actively pursues an investigation to a legal and logical conclusion. The investigator works under the direction of the executive director and submits an investigative report to be reviewed by the Investigative Committee.</p> <p>The Investigative Committee has the option of entering into a consent agreement with the respondent once the investigation has been concluded and the allegation(s) supported by the evidence. The committee makes a recommendation as to what punishment and/or fine(s) to impose on the respondent. The respondent can agree by signing the consent order or if the respondent chooses not to agree; continue with the hearing before the entire board.</p>
---------------------	---

Recommendation Phase	Once probable cause has been determined, a hearing will be scheduled and the parties notified in advance. If the complaint is not substantiated by the evidence, the case is closed, and the complainant and respondent are notified that the case has been closed and under what grounds.
Board Action Phase	Hearings are conducted at the board's headquarters in the conference room and are open to the public. An administrative law judge conducts the hearing as argued by the Assistant Attorney General and the respondent's attorney. The board member serving on the Investigative Committee abstains from deliberations and voting in order to guarantee due process.
Resolution Phase	Once the hearing is concluded, the administrative law judge will write a final order of the case which is then voted on by the board to accept, amend, or reject the judge's findings... The order is then sent to the respondent; case closed. Disciplinary actions are published on the board's Internet website and in the board's newsletter.

Schedule of Complaints

Fiscal Year	Complaints Received	Resolved	Pending*	Average Days to Resolution
2005-06	5	0	5	N/A
2006-07**	6	0	6	N/A
* According to the executive director, complaints remain unresolved due to difficulties in obtaining an investigator and a change of legal counsel.				
** Through 2/09/2007				

SMART BUDGETING

Acts of Alabama, 2004-50 (HJR89) states, "That all state agencies and entities receiving legislative appropriations are requested to submit to the Joint Legislative Budget Committee budget proposals in performance based budget language and form. This request is applicable for proposals for the 2005-2006 fiscal year to be submitted to the 2005 Regular Session and for each succeeding fiscal year. The Director of Finance is requested to inform each public agency or entity of our desires concerning this matter."

To comply with this request, the Director of Finance implemented a system of budgeting that requires each agency to report its performance, the system to be named SMART, an acronym for Specific, Measurable, Accountable, Responsive, Transparent.

As a part of the SMART Budgeting system, each agency is required to submit its goals

and objectives to the Department of Finance - the goals to be stated as long-term, multi-year targets which are to be achieved through accomplishment of stated objectives, which are single-year targets. In order to report progress, the goals and objectives must necessarily be designed so that the agency can measure annual progress toward their achievement. The SMART Budgeting system includes an Operations Plan and a Quarterly Performance Report. The performance report presents information on achievement of an agency's annual objectives, and is SMART Budgeting report that presents performance information...

If an agency has not included at least one objective for each goal, performance relative to that goal will not be reported. For the 2006 fiscal year, each licensing/regulatory agency was required to have at least one goal and one or more objectives directly related to the goal. Additional annual objectives were allowed without corresponding goals. The board's SMART Operations Plans for 2006 and 2007 and the 2006 Quarterly Performance Report are included in the appendices of this report

Among agencies that were not used to reporting performance, we found confusion as to how to design the goals and objectives and how to differentiate between goals and objectives. Routinely we found goals with no directly related objectives. Both goals and objectives were often too abstract to be measurable, and progress toward their achievement could not be meaningfully reported. The Department of Finance is aware of these deficiencies and is taking remedial steps.

In these respects, the Board for Respiratory Therapy was no exception. Some goals were not accompanied by directly related objectives. Some goals and objectives were abstract, and progress toward their achievement could therefore not be measured and reported.

Goals and projected performance for the year are presented on the Operations Plans. Projected and actual performance toward achievement of objectives for the year are presented in the Quarterly Performance Report.

The board's performance goals and objectives for the 2006 and 2007 fiscal years and the examiner's comments are presented in the following table.

2006	
2006 GOALS	COMMENTS
1. To establish and promulgate the issuance of licenses to qualified respiratory therapists.	This is only a statement of normal work to be done and is not a performance goal. It does not address how well the work is done.
2. To ensure that qualified practitioners enter the profession.	This is only a statement of normal work to be done and is not a performance goal. It does not address how well the work is done.

3. To maintain an up-to-date database of practitioners.	This is only a statement of normal work to be done and is not a performance goal. It does not address how well the work is done. There is no directly related objective. Consequently, progress toward achievement of this goal was not reported.
4. To expand the board's web site by providing a roster with disciplinary action information, on-line renewal, on-line license verification and regular news updates.	The goal has a measurable long-term target. However, there is no directly related objective. Consequently performance relative to this goal was not reported.
5. To minimize illegal and unethical practice of respiratory therapy.	There is no long term measurable target stated. There is no directly related objective. Consequently, progress toward achievement of this goal was not reported.

2006 OBJECTIVES	Reported	COMMENTS
1. Issue initial licenses to qualified applicants.	2,269	This is only a statement of work to be done and is not a performance objective. It does not address how well the work is done. Reported performance states only how many licenses were issued.
2. To create a system to issue licenses within 30 days after completed application.	42 Days	The objective is appropriate and properly reported.

2007

2007 GOALS	COMMENTS
G1: To ensure that qualified practitioners enter the profession.	This is only a statement of work to be done and is not a performance goal. It does not address how well work is done. There is no directly related objective. Consequently, progress toward achievement of the goal will not be reported.
G2: To continually update and develop the Board's Web Site for on-line verification, on-line renewals, regular updates and as many on-line applications as possible to better serve the licensee with convenience	The goal has no measurable long-term target. There is no directly related objective. Consequently performance relative to this goal will not be reported.

and the consumer with information.	
G3: To issue licenses in a timely manner.	The goal is measurable, but has no long-term target. "Timely" is undefined.
2007 OBJECTIVES	COMMENTS
Create a system to issue licenses within 30 days of completed application.	The goal is appropriate and performance can be reported.
Issue licenses to qualified applications.	This is only a statement of work to be done and is not a performance objective. It does not address how well work is done.

FINANCIAL INFORMATION

Schedule of Fees

Fee	Amount	Statutory Reference <i>Code of Alabama 1975</i>
Application Fee	\$25.00	§34-27B-4 (1)
License Fee	\$75.00	§34-27B-4 (1)
Temporary License Application Fee	\$25.00	§34-27B-4 (1)
Temporary License Fee	\$25.00	§34-27B-4 (1)
Renewal Fee	\$75.00	§34-27B-4 (1)
Late Renewal Fee	\$50.00	§34-27B-4 (1)
Replacement License Fee	\$25.00	§34-27B-4 (1)
License Verification Fee	\$25.00	§34-27B-4 (1)
Reinstatement Fee	\$150.00	§34-27B-4 (1)
Request of Application Package	\$10.00	§34-27B-4 (1)
Examination Fee	\$100.00	§34-27B-4 (1)

Transfer to General Fund

The *Code of Alabama 1975*, Section 34-27B-6 provides that, "After the first three full fiscal years from May 17, 2004, if a surplus of funds exists which is greater than one year's operating expense, the funds shall be distributed to the General Fund."

This provision will become effective upon the board's fund balance on September 30, 2008.

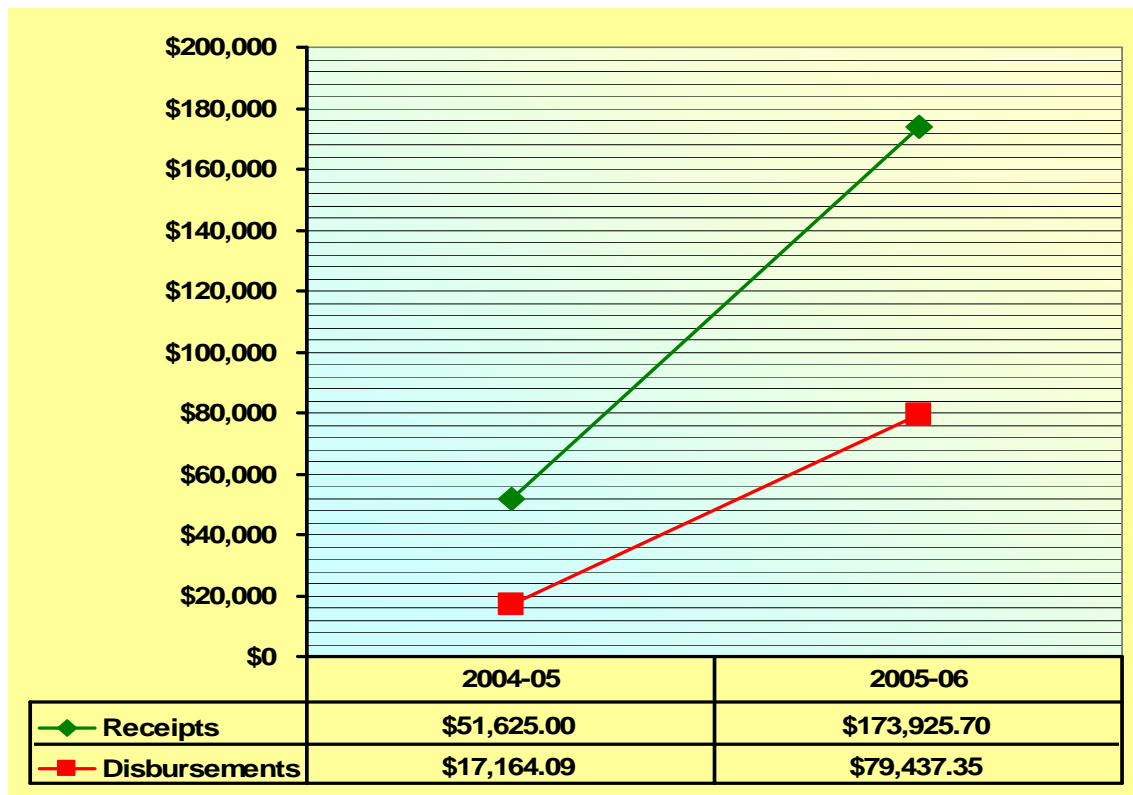
Schedule of Operating Receipts, Disbursements, and Balances

May 17, 2004 through September 30, 2006

	2005-2006	2004-2005
<u>Receipts</u>		
Licensing Fees	\$173,925.70	\$ 51,625.00
<u>Disbursements</u>		
Travel In-State	5,770.86	2,228.97
Utilities and Communications	3,142.48	726.11
Professional Services	66,779.35	12,678.94
Supplies, Materials and Operating Expenses	3,744.66	1,530.07
Total Disbursements	79,437.35	17,164.09
Excess (Deficiency) of Receipts over Disbursements	\$94,488.35	\$34,460.91
Cash Balance at Beginning of Year	34,460.91	-
Cash Balance at End of Year	128,949.26	34,460.91
Reserved For Unpaid Obligations	12,750.00	10,600.00
Unobligated Cash Balance at the Year-End	\$ 116,199.26	\$ 23,860.91

Operating Receipts Vs Operating Disbursements (Chart)

May 17, 2004 through September 30, 2006



QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all five board members. All five responded

Question #1

What are the most significant issues currently facing the Board of Respiratory Therapy and how is the board addressing these issues?

1. "Disciplinary actions-meeting as a board." *"Following established procedures."*
2. "Preparation for the first renewal of licenses is the most significant issue facing the Board at present." *"We are developing a simplified renewal form. We are moving towards using online renewal as a mechanism for renewal. We are developing materials and notices to help respiratory therapists with the renewal process. We also need to enhance access to information on the website. Currently, confirmation of licensees is somewhat tedious for potential employers and others interested in confirming the licensing status of a respiratory therapist. We are developing a more efficient way of accessing our database for this purpose. Overall, for a newly established board, I believe things are going well. Because licensing of respiratory therapists is new, we are continuing to learn. We are currently confronting investigation of complaints. We have established procedures and with the help from the Attorney General's office and other state resources, we seem to be on track for effectively handling complaints and the disciplinary process."*
3. "Educating all respiratory therapists about continuing education—website information, talks at professional meetings, e-mails, and direct mailings to licensees." *"Working through the first renewal cycle for licenses."*
4. "Education of respiratory therapy community on obtaining CEU used on license renewal."
5. "Since there never has been oversight of Respiratory Therapy, the biggest issue we face is insuring we protect the public." *"Through insuring a highly qualified and competent therapist core for our citizens."*

Question #2

What changes to the Board of Respiratory Therapy's laws are needed?

1. "After two years in existence, the Board discovered several issues that needed to be addressed by changes in the law. At the present time, I cannot recall the details. I am sure the Executive Director can provide the details."
2. "Under 34-27B-6 Trust Fund, there is a provision that 'After the first three full years if a surplus of funds exist which is greater than one year's operating expense, the funds shall be distributed to the general fund.' This provision is problematic because the renewal cycle is every two years. The major portion of income to cover two years of operation will, therefore, arrive in a very brief period. If the funds were trimmed to cover two

- year's operation, the Board would have insufficient funds to cover the second year.”
3. “There needs to be the ability to discipline/fine those practicing without a license. Stricter monitoring of continuing education providers and the ability to charge for this service. Allow enough funds to remain in operating budget to cover 2 years expenses. License renewal is every 24 months and the majority of funds received or collected every other year. See # 5.”
 4. “I feel no major changes are needed, only some administrative changes that would facilitate the Law matching actual hospital practice (like recognizing Nurse Practitioners’ Orders, etc.)”

Question #3

Is the Board of Respiratory Therapy adequately funded?

5 Yes 0 No 0 No Response

1. “Yes, the Board is set up to be funded by income derived from fees. The present fee structure seems to be about right in meeting the expense of running the Board.”
2. “Yes, only if issues in #2 and #5 addressed.”

Question #4

Is the Board of Respiratory Therapy adequately staffed?

5 Yes 0 No 0 Unknown

Question #5

What is the purpose of your board’s fiscal year end balance of unobligated funds?

1. “To meet expenses for the years that little or no income is expected from licenses as licenses are not to be licensed every year.”
2. “Being a new Board, we are still learning the extent of financial obligations occurring now and in the future. We have gone through a phase of developing and approving rules and regulations. We have completed the initial licensing of respiratory therapists in Alabama. We are now in a phase of regulation as well as preparing for the first renewal. In other words, the Board has not reached a steady state; unobligated funds allow flexibility in meeting these needs, as well as insuring adequate funding over a two year cycle.”
3. “The funds that are not needed to meet the next year’s budget are to be returned to the State’s general fund. RT’s only renew every two years, therefore there is a significant amount of money coming in every other year to pay for the Executive Office, medical investigator, legal expenses, and licensing expenses. During the year when renewal is not done, there will be a very small influx of money.”
4. “To fund the activities of the Board the following year. The time limit of financial cycle of this Board is 24 months, not 12.”
5. “We only license once each 2 years. Meaning we must insure we retain 2 years

Board Member Questionnaire

operational funds. The first year will look like we have year-end balance, but those funds must sustain us until the next bi-annual license period. I don't see us carrying unobligated funds."

Licensee Questionnaire

Licensee Questionnaire

Questionnaires were mailed to one hundred licensed respiratory therapists. Thirty-seven responded.

Question #1

Do you think regulation of your profession by the Board of Respiratory Therapy is necessary to protect public welfare?

36 Yes 1 No Unknown No Opinion

Question #2

Do you think any of the Board of Respiratory Therapy's laws, rules, and policies are an unnecessary restriction on the practice of your profession?

1 Yes 33 No 2 Unknown 1 No Opinion

Question #3

Do you think any of the Board of Respiratory Therapy's requirements are irrelevant to the competent practice of your profession?

1 Yes 31 No 3 Unknown 2 No Opinion

Question #4

Are you adequately informed by the Board of Respiratory Therapy of changes to and interpretations of board positions, policies, rules and laws?

21 Yes 9 No 6 Unknown 1 No Opinion

Question #5

Has the Board of Respiratory Therapy performed your licensing and/or renewal in a timely manner?

37 Yes No No Opinion

Question #6

Do you consider mandatory continuing education necessary for competent practice?

31 Yes 5 No Unknown No Opinion 1 No Response

Question #7

Has the Board of Respiratory Therapy approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

27 Yes 7 No 2 Unknown No Opinion 1 No Response

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board of Respiratory Therapy doing to address the issue(s)?

22 No Response

1. "Pay scale has not increased state wide as a result of state license, compared to neighboring states."
2. "There is a high demand for respiratory therapist." *"I don't know."*
3. "I work in a small hospital and my main problem is finding adequate continuing education at a decent price. Compared to my nurses CEU's the respiratory education is overpriced for the hours you get."
4. "Education, staff, JAHCO regulations."
5. "Wages"
6. "Setting standards of practice equivalent to those across the USA."
7. "Enough CEU's in the area." *"Replacing employees with qualified personnel."*
8. "Keeping all members informed of any changes and/or issues within the profession."
9. "People who are still able to work without education from college and the board gives them licensing anyway, this is not securing our job."
10. "Home care is going to be hurt by the new O₂ laws coming out in 2009, Medicare is cutting the prices after that date."
11. "Education and continuing education. Board help offering education."
12. "A shortage of LRT willing to work in small rural hospitals."
13. "Unknown awareness that we are now licensed, television commercials can help spread the word."
14. "How to submit CEU's and other logistical issues...***Not bad at all.***"
15. "I have not practiced in Alabama since I moved here 2 years ago from Tennessee, so I am not up to date on any current issues."

Question #9

Do you think the Board of Respiratory Therapy and its staff are satisfactorily performing their duties?

24 Yes 0 No 10 Unknown 2 No Opinion 1 No Response

Question #10

Has any member of the Board of Respiratory Therapy or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

0 Yes 36 No Unknown No Opinion 1 No Response

APPENDICES

Smart Budgeting Reports

2006 Smart Operations Plan

State of Alabama EBO Form No. 4b		Alabama State Board of Respiratory Therapy FY 2006 SMART OPERATIONS PLAN		Agency No. 377 Page 1 of 5		
			ACTUAL FY04	BUDGET FY05	BUDGET FY06	
MISSION	To protect the citizenry against the unauthorized, unqualified, and improper administration of respiratory therapy and from unprofessional or unethical conduct by persons licensed to practice respiratory therapy. (Section 34-27-B-1)					
VISION (optional)	Respiratory Health in the State of Alabama will improve by providing quality treatment given by qualified Respiratory Therapy Professionals.					
VALUES (optional)	We value the rights of consumers of Respiratory Therapy Services. We value continuous improvement of Board Staff in order to provide efficient, effective, and ethical service to consumers and licensees. We value public awareness of Respiratory Therapy.					
PROGRAM ACTIVITY	Alabama State Board of Respiratory Therapy (\$ in thousands)					
MISSION	General Administration for ASBRT (\$ in thousands)					
			\$20.0	\$122.0	\$122.0	
GOAL(S)	G1. To establish and promulgate the issuance of licenses to qualified respiratory therapists. G2. To ensure that qualified practitioners enter the profession. G3. To maintain an up-to-date database on practitioners. G4. To expand on the Board's Web Site by providing a Roster with Disciplinary Action Information, on-line renewal, on-line license verification and regular news updates. G5. To minimize illegal and unethical practices of Respiratory Therapists.					
WORKLOAD	Number of Licensees					
			0	2,000	500	
	Number of Consumer Complaints Received					
			0	30	30	
CRITICAL ISSUES	Internal Adequacy of Information Systems - the data systems are inadequate to easily provide information to licensees and consumers. External Sigma of New Regulation: the misconception and concern of what powers a new board will assume.					
OBJECTIVES	Spending Administer the Rules and Regulations for governing the practice of Respiratory Therapy in AL. (\$ in thousands)					
			\$20.0	\$122.0	\$122.0	
	Staffing Contracts with Professional Board Management Service (\$ in thousands)					
			45.0	45.0	45.0	
	Efficiency Issue initial licenses to qualified applicants					
			0.0	2,000.0	500.0	
	Quality To create a system to issue licenses within 30 days of completed application.					
			0.0	60.0	30.0	
STRATEGIES	Collaboration with ISD, and Alabama Interactive to further develop Web Site and Data Systems. Consumer & Licensee Education on the newly established board. Implement efficient application process for initial licensure of qualified individuals in the practice of respiratory therapy.					

2006 Smart Quarterly Performance Report

Smart Quarterly Performance Report											
Fiscal Year: 2006											
Agency: 377 Respiratory Therapy, Alabama State Board of											
Org:											
Program: 653 PRO AND OCCU LICENSING AND REG											
Activity:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Workload/Cost Factor	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
WC1: Number of Licensees	Licensees Issued	1,500	1,700	500	95	50	70	200	336	2,000	2,269
WC2: Number of Complaints	Complaints Received	0	0	5	0	2	3	3	1	10	5
Spending	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
SP1: Administer Statute and Rules and Regulations for RT Regulation	Quarterly Spending	30,500	21,420	30,500	21,000	30,500	13,300	30,500	21,400	122,000	55,700
Staffing	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
ST1: Contracts with Professional Board Management Service	Contract Amount	11,250	11,250	11,250	11,250	11,250	11,250	11,250	11,250	45,000	45,000
Efficiency	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
EF1: Issue Initial licenses to qualified applicants	Issue 2000 Licensees	1,500	1,700	250	95	50	70	200	336	2,000	2,269
Quality	Performance Indicator	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual	Projected	Actual
QU1: Create a system to issue licenses within 30 days after completed application	Process applications within 30 days	60	60	45	45	30	32	30	30	30 days	42
How have policy decisions and budget determinations made by the governor and the legislature in the fiscal year 2005-06 affected your agency in meeting its desired accomplishments and services?											
The board has been adequately funded this fiscal year.											
What administrative improvements did your agency make in fiscal year 2005-06 and what potential improvements do you foresee for future years? Include suggested changes in legislation or administrative procedures which would aid your agency in these improvements.											
The Board completed the grandfathering process for over 2,000 licensees. In the coming years the board will be implementing on-line renewals and housekeeping legislation.											

2007 SMART Operations Plan

Agency/ Org	377 - Respiratory Therapy, Alabama State Board of
Organization	-
Program	653 - PRO AND OCCU LICENSING AND REG
Activity	-

Mission	To protect the citizenry against the unauthorized, unqualified, and improper administration of respiratory therapy and from unprofessional or unethical conduct by persons licensed to practice respiratory therapy (Section 34-27-B-1)
Vision	Consumers of Respiratory Therapy Services will be provided with quality respiratory care delivered by a professional licensed respiratory therapist
Values	We value the rights of consumers; we value continuous improvement of board staff in order to provide efficient, effective, and ethical service to consumers and licensees; we value public awareness of Respiratory Therapy

Goals	<p>G1: To ensure that qualified practitioners enter the profession. (GP-5)</p> <p>G2: To continually update and develop the Board's Web Site for on-line verification, on-line renewals, regular updates and as many on-line applications as possible to better serve the licensee with convenience and the consumer with information (GP-1)</p> <p>G3: To issue licenses in a timely mannoer (GP-1)</p>
--------------	--

Critical Issues	
Internal	ICI1: Adequacy of Information Systems ()

External	ECI1: Establishment of a new regulatory agency ()
-----------------	---

Strategies	<p>1). Work with ISD to develop an Access Database ()</p> <p>2). Contract with Alabama Interactive to further develop the Board's Web Site applications ()</p> <p>3). Work with sister state agencies and health field related Associations to establish a reputable Board. ()</p>
-------------------	--

Workloads							Performance Indicator	
Number of Licensees							0	
FY 07 Projected: 2,500			FY 07 Target: 250					
FY07 Quarterly Projections:	1 st Qtr:	150	2nd Qtr:	50	3 rd Qtr:	25	4 th Qtr:	25
Number of Complaints							0	
FY 07 Projected: 3			FY 07 Target: 6					
FY07 Quarterly Projections:	1 st Qtr:	2	2nd Qtr:	1	3 rd Qtr:	2	4 th Qtr:	1

Objectives		Performance Indicator
Spending	Keep Board costs down by contracting for office space and equipment	0
FY 07 Projected: 45,000		FY 07 Target: 45,000

2007 SMART Operations Plan

FY07 Quarterly Projections:	1 st Qtr:	15000	2nd Qtr:	10000	3 rd Qtr:	10000	4 th Qtr:	10000
Staffing	Contract with Management Firm to provide staff						0	
FY 07 Projected:		45,000		FY 07 Target: 45,000				
FY07 Quarterly Projections:	1 st Qtr:	15000	2nd Qtr:	10000	3 rd Qtr:	10000	4 th Qtr:	10000
Efficiency	Create a system to issue Licenses within 30 days of completed application						Day	
FY 07 Projected:		30		FY 07 Target: 30				
FY07 Quarterly Projections:	1 st Qtr:	45	2nd Qtr:	45	3 rd Qtr:	30	4 th Qtr:	30
Quality	Issue licenses to qualified applications						Licensee	
FY 07 Projected:		500		FY 07 Target: 500				
FY07 Quarterly Projections:	1 st Qtr:	250	2nd Qtr:	100	3 rd Qtr:	100	4 th Qtr:	50

2007 SMART Operations Plan

Source of Funds			
Fund Code	Fund Name	Requested FY 07	Budgeted FY 07
1149	Alabama Board of Respiratory Therapy Fund	\$122,000	\$122,000
Total of all Funds Listed Above:		\$122,000	\$122,000

Statutory Authority

CHAPTER 27B. RESPIRATORY THERAPISTS HISTORICAL NOTES HISTORY

Effective date:

The act which added this chapter is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-4-.01, Board of Respiratory Therapy; Scope of Practice.

19 Ala. Admin. Code 798-X-6-.01 et seq., Board of Respiratory Therapy; Standards of Practice.

§ 34-27B-1. Legislative findings. Historical Notes References

The Legislature finds and declares that the practice of respiratory therapy in Alabama affects the public health, safety, and welfare of the citizens of Alabama. It, therefore, should be subject to regulation and control, in the public interest to protect the citizenry against the unauthorized, unqualified, and improper administration of respiratory therapy and from unprofessional or unethical conduct by persons licensed to practice respiratory therapy.

(Act 2004-518, p. 1038, § 1.)

HISTORICAL NOTES HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-1-.01, Board of Respiratory Therapy; Purpose: 798-X-1-.01. Purpose.

§ 34-27B-2. Definitions. Historical Notes References

As used in this chapter, the following terms shall have the following meanings:

- (1) Board. The Alabama State Board of Respiratory Therapy.
- (2) Direct clinical supervision. A situation where a licensed respiratory therapist or physician is available for the purpose of communication, consultation, and assistance.
- (3) Healthcare facility. The definition shall be the same as in Section 22-21-260.
- (4) Medically approved protocol. A detailed plan for taking specific diagnostic or treatment actions, or both, authorized by the treating physician of the patient, all of which actions shall be:
 - a. In a hospital or other inpatient health care facility, approved by the supervising physician of the respiratory therapist or in an outpatient treatment setting approved by the supervising physician of the respiratory therapist.
 - b. Except in cases of medical emergency, instituted following an evaluation of the patient by a physician or otherwise directed by the supervising physician of the respiratory therapist.
 - c. Consistent with the definition of the scope of practice of respiratory

therapy, as established by this chapter.

(5) Physician. A person who is a doctor of medicine or a doctor of osteopathy licensed to practice in this state.

(6) Respiratory therapist. A person licensed by the board to administer respiratory therapy and who has the knowledge and skills necessary to administer respiratory therapy, monitor patient responses, modify respiratory therapy based upon patient response, provide information and education to patients about deficiencies or disorders of the cardiopulmonary system, and supervise others in the delivery of appropriate respiratory therapy procedures.

(7) Respiratory therapy or care. Therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities of the cardiopulmonary system and associated aspects of other systems' functions, given by a health care professional under the direction of a physician. The term includes, but is not limited to, the following activities conducted upon written prescription, verbal order, or medically approved protocol:

a. Direct and indirect pulmonary care services that are safe, aseptic, preventive, or restorative to the patient.

b. Direct and indirect respiratory therapy services, including, but not limited to, the administration of pharmacologic, diagnostic, and therapeutic agents related to respiratory therapy procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician.

c. Observation and monitoring of signs and symptoms, general behavior, and general physical response to respiratory therapy treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior, or general responses exhibit abnormal characteristics and implementation, based on observed abnormalities, of appropriate reporting or referral practices or prescribed and medically approved respiratory therapy protocols or appropriate changes in a treatment regimen, pursuant to a prescription by a physician, or the initiation of emergency procedures.

d. The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician:

1. Administration of medical gases, exclusive of general anesthesia.
2. Aerosols.
3. Humidification.
4. Environmental control systems and hyperbaric therapy.
5. Pharmacologic agents related to respiratory therapy procedures.
6. Mechanical or physiological ventilatory support.
7. Bronchopulmonary hygiene.
8. Cardiopulmonary resuscitation.
9. Maintenance of the natural airways.
10. Insertion without cutting tissues and maintenance of artificial airways.
11. Diagnostic and testing techniques required for implementation of respiratory therapy protocols.
12. Collections of specimens of blood and other body fluids including specimens from the respiratory tract.

13. Collection of inspired and expired gas samples.
14. Analysis of blood, gases, and respiratory secretions.
15. Measurements of ventilatory volumes, pressures, and flows.
16. Pulmonary function testing.
17. Hemodynamic and other related physiologic measurements of the cardiopulmonary system.
18. Respiratory telecommunications.
19. Cardiopulmonary disease management.
20. Tobacco cessation.

e. The transcription and implementation of the written and verbal orders of a physician pertaining to the practice of respiratory therapy.

f. Institution of known and medically approved protocols relating to respiratory therapy in emergency situations in the absence of immediate direction by a physician and institution of specific procedures and diagnostic testing related to respiratory therapy as ordered by a physician to assist in diagnosis, monitoring, treatment, and medical research.

g. Delivery of respiratory therapy procedures, instruction, and education of patients in the proper methods of self-care and prevention of cardiopulmonary diseases and other conditions requiring the use of respiratory therapy equipment or techniques.

(Act 2004-518, p. 1038, § 2.)

HISTORICAL NOTES HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

Code Commissioner's Notes

In 2004, the Code Commissioner in paragraph c. of subdivision (7) inserted "and" after "general behavior" for grammatical purposes.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-2-.01, Board of Respiratory Therapy; Definitions.

§ 34-27B-3. License requirements; examination. Historical Notes References

(a) Except as provided in Section 34-27B-7, no person shall hold himself or herself out to be, or function as, a respiratory therapist in this state unless licensed in accordance with this chapter.

(b) In order to obtain a respiratory therapist license, an applicant shall demonstrate to the board that he or she is at least 18 years of age, is a high school graduate, or has the equivalent of a high school diploma, and meets one of the following requirements:

(1) Holds credentials as a registered respiratory therapist (RRT) or a certified respiratory therapist (CRT), as granted by the National Board for Respiratory Care or its successor organization.

(2) Holds a temporary license issued under subsection (d) of Section 34-27B-7 and passes the examination leading to the CRT or RRT credential.

(3) Has a valid respiratory therapist license from another state, the District of Columbia, or a territory of the United States, whose requirements for licensure are considered by the board as substantially similar to those of Alabama and who

otherwise meets the reciprocity requirements established by the board.

(4) Meets the requirements of subdivision (2) of subsection (d) of Section 34-27B-7.

(5) Has been approved by the board as otherwise qualified by special training and has passed the licensure examination established by the board in subsection (c).

(c) The board shall arrange for the administration of a licensure examination administered by the state or a national agency approved by the board. The examination shall be validated and nationally recognized as testing respiratory care competencies. The board may enter into agreements or contracts, consistent with state law, with outside organizations for the purpose of developing, administering, grading, and reporting the results of licensure examinations. Such organizations shall be capable of meeting the standards of the National Commission for Health Certifying Agencies, or its equivalent or successor organization. The board shall establish criteria for satisfactory performance on the examination.

(Act 2004-518, p. 1038, § 3.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-5-.01 et seq., Board of Respiratory Therapy; Licensure.

§ 34-27B-4. State Board of Respiratory Therapy -- Functions. Historical Notes
References

The board shall perform the following functions:

(1) Set respiratory therapy licensure fees, including, but not limited to, application, initial, renewal, and reinstatement fees.

(2) Establish and publish minimum standards of continuing education of respiratory therapy in accordance with those standards developed and accepted by the profession.

(3) Examine for, approve, deny, revoke, suspend, and renew licensure of duly qualified applicants.

(4) Promulgate and publish rules in accordance with the Administrative Procedure Act to administer this chapter.

(5) Conduct hearings on charges calling for the denial, suspension, revocation, or refusal to renew a license.

(6) Maintain an up-to-date list of every person licensed to practice respiratory therapy pursuant to this chapter. The list shall include the last known place of residence and the state license number of the licensee.

(7) Maintain an up-to-date list of persons whose licenses have been suspended, revoked, or denied. The list shall include the name, Social Security number, type, date, and cause of action, penalty incurred, and the length of the penalty. The information on the list, except for Social Security numbers, shall be available for public inspection during reasonable business hours and the information may be shared with others as deemed necessary and acceptable by the board.

(Act 2004-518, p. 1038, § 4.)

HISTORICAL NOTES HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-3-.04, Board of Respiratory Therapy; Organization and Administration: Duties of the Board.

19 Ala. Admin. Code 798-X-8-.01 et seq., Board of Respiratory Therapy; Continuing Education for Licensure.

§ 34-27B-5. State Board of Respiratory Therapy -- Created; composition; liability of members; terms; meetings; expense reimbursement and per diem allowance.

Historical Notes References

(a) The Alabama State Board of Respiratory Therapy is created to implement and administer this chapter and shall be composed of five members appointed by the Governor. Three of the members shall be respiratory therapists, one member shall be the chief executive officer of a hospital, and one member shall be a physician. The respiratory therapist members of the board appointed by the Governor shall be selected from a list of names submitted by the Alabama Society for Respiratory Care. The list shall include two names for each appointed position to be filled. The respiratory therapist members appointed to the board shall be registered or certified by the National Board for Respiratory Care or its successor organization. Respiratory therapists appointed to the initial board must be eligible to obtain a license under this chapter. Respiratory therapists selected for subsequent appointments must be licensed by the state. The hospital member shall be selected from a list of names submitted by the Alabama Hospital Association. The physician member appointed shall be duly licensed to practice medicine in Alabama and shall be a member of at least one of the following: The American Thoracic Society, the American College of Chest Physicians, the American Society of Anesthesiologists, or the American Academy of Pediatrics. The physician member of the board appointed by the Governor shall be selected from a list of names submitted by the Medical Association of the State of Alabama. Such lists shall include two names for the position.

(b) All board members shall be residents of Alabama and the composition of the board shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) The Governor shall make the appointments for all positions for members of the board within 90 days of the date the position becomes available, including initial appointments, vacancies, and replacements at the end of the term of service.

(d) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their official duties.

(e) The term of office of those members first appointed shall be as follows: Two respiratory therapists and the hospital member, as determined by the Governor, shall serve for terms of two years, and one respiratory therapist and the physician member shall serve for terms of four years. Thereafter, the term of all members shall be for four years. No member shall be appointed for more than three consecutive full terms. A

vacancy in an unexpired term shall be filled in the manner of the original appointment. The board shall elect a chair and vice chair annually.

(f) The board shall meet at least twice each year at a time and place determined by the chair. A majority of the members of the board shall constitute a quorum for the transaction of business.

(g) Each member shall serve without compensation, but shall be reimbursed for travel expenses incurred in attendance at meetings of the board and any other expenses incurred on business of the board at its discretion. Board members shall also receive a per diem allowance following the guidelines for state employees. The reimbursement for expenses and per diem shall be paid from funds derived from the Alabama State Board of Respiratory Therapy Fund.

(Act 2004-518, p. 1038, § 5.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-3-.01 et seq., Board of Respiratory Therapy; Organization and Administration.

§ 34-27B-6. Trust fund. Historical Notes

There is hereby established a separate special trust fund in the State Treasury to be known as the Alabama State Board of Respiratory Therapy Fund. All funds received by the board shall be deposited into the fund and shall be expended only to implement and administer this chapter. No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this chapter. Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4, (commencing with Section 41-4-80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act. Funds shall be disbursed only upon a warrant of the state Comptroller upon itemized vouchers approved by the chair. After the first three full fiscal years from May 17, 2004, if a surplus of funds exists which is greater than one year's operating expense, the funds shall be distributed to the General Fund.

(Act 2004-518, p. 1038, § 6.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

§ 34-27B-7. Issuance, use, renewal of license; temporary license. Historical Notes References

(a) The board shall issue a respiratory therapist license to any person who meets the qualifications required by this chapter and who pays the license fee established herein.

(b) Any person who is issued a license as a respiratory therapist under this chapter may use the words "licensed respiratory therapist" or the letters "LRT" in connection with

his or her name to denote his or her license.

(c) A license issued under this chapter shall be subject to biennial renewal.

(d)(1) The board may issue a six-month temporary license as a respiratory therapist to persons who have graduated from a respiratory therapy educational program accredited by the Council on Allied Health Education Programs (CAHEP) in collaboration with the Committee on Accreditation for Respiratory Care (CoARC), or their successor organizations, and who have applied for and are awaiting competency examination. The temporary license shall be renewable only once for an additional six-month period if the applicant fails the examination. Exceptions may be made at the discretion of the board based upon an appeal identifying extenuating circumstances. The holder of a temporary license may only provide respiratory therapy or care activities, services, and procedures as defined in Section 34-27B-2 under the direct clinical supervision of a licensed respiratory therapist or physician.

(2) The board shall grant a license as a respiratory therapist to other persons who do not meet the qualifications for licensure pursuant to Section 34-27B-3, but who, on the effective date of the adoption of the rules and regulations of the board, are currently employed in the administration of respiratory therapy under the direction of a physician in the State of Alabama. The opportunity to apply for a respiratory therapy license issued under this subdivision shall expire 365 days after implementation of the rules of the board. Holders of these licenses shall be eligible to renew their licenses as are any other licensed respiratory therapists under this chapter.

(Act 2004-518, p. 1038, § 7; Act 2006-291, § 1(b)(2).)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

Amendment notes:

The 2006 amendment, effective April 2006, in subsection (c) substituted "biennial" for "biannual".

Code Commissioner's Notes

In 2004, the Code Commissioner in the last sentence of subdivision (1) of subsection (d) translated the citation to Section 2 of the act (now Section 34-27B-2) rather than Act Section 3 (now Section 34-27B-3) to reference the apparently intended hierarchy unit.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-7-.03, Board of Respiratory Therapy; Disciplinary Action: Grounds for Discipline of a Licensee or Denial of Renewal or Reinstatement.

§ 34-27B-8. Disciplinary actions for unprofessional conduct; hearings; expiration of suspended license. Historical Notes References

(a) The board may refuse to renew a license, may suspend or revoke a license, may impose probationary conditions, or may impose an administrative fine not to exceed five hundred dollars (\$500) per violation, as disciplinary actions if a licensee or applicant for licensure has been found guilty of unprofessional conduct that has endangered, or is likely to endanger, the health, welfare, or safety of the public. Unprofessional conduct includes, but is not limited to, the following:

(1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

(2) Being found guilty of unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the American Association for Respiratory Care or its successor organization.

(3) Conviction of a crime, other than a minor offense, in any court if the offense has a direct bearing on whether the person should be entrusted to serve the public in the capacity of a respiratory therapist.

(b) The board, after a hearing, may exercise the disciplinary actions authorized in subsection (a). The board shall adopt policies for the conduct of the hearings. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall hold a hearing to consider any application for reinstatement.

(c) The board may establish rules regarding the disciplinary actions authorized in subsection (a) in accordance with the Administrative Procedure Act.

(d) A suspended license is subject to expiration during the suspension period.
(Act 2004-518, p. 1038, § 8.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-6-.02, Board of Respiratory Therapy; Standards of Practice: Conduct and Accountability.

19 Ala. Admin. Code 798-X-7-.01 et seq., Board of Respiratory Therapy; Disciplinary Action.

§ 34-27B-9. Representation as "respiratory therapist," etc. Historical Notes

References

(a) A person who does not hold a license or a temporary license as a respiratory therapist or whose license or temporary license has been suspended or revoked may not do any of the following:

(1) Use in connection with the person's practice the words "respiratory care professional," "respiratory therapist," "respiratory care practitioner," "certified respiratory care practitioner," "licensed respiratory therapist," "inhalation therapist," or "respiratory therapy technician"; or use the letters "R.C.P." or "L.R.T."; or use any other words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory therapist.

(2) Directly or by implication represent in any way that the person is a respiratory therapist.

(b) A person who holds a license or a temporary license to practice respiratory therapy under this chapter may use the title "respiratory therapist" and the abbreviation "L.R.T."

(Act 2004-518, p. 1038, § 9.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-6-.03, Board of Respiratory Therapy; Standards of Practice: Licensed Respiratory Therapist Title.

§ 34-27B-10. Violations. Historical Notes

Any person who violates this chapter, upon conviction, shall be guilty of a Class B misdemeanor.

(Act 2004-518, p. 1038, § 10.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

§ 34-27B-11. Additional activities permitted under chapter. Historical Notes References

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following:

(1) Any person who is licensed in Alabama or certified by an organization accredited by the National Commission for Certifying Agencies and acceptable to the state from engaging in the profession or occupation for which the person is licensed or certified.

(2) Any person employed by the United States government who provides respiratory therapy solely under the direction or control of the United States government agency or organization.

(3) Any person receiving clinical training while pursuing a course of study leading to registry or certification in a respiratory therapy educational program accredited by the Council on Allied Health Education Programs in collaboration with the Committee on Accreditation for Respiratory Care or their successor organizations. This person will be under direct supervision and be designated by a title clearly indicating his or her status as a student or trainee.

(4) Any emergency medical technician licensed by the Alabama State Board of Health who is providing care to a patient at the scene of an emergency, or during transport of the patient in a licensed ground ambulance, provided that such care may not exceed the scope of care permissible under the rules of the Alabama State Board of Health.

(5) The delivery of respiratory therapy of sick or disabled persons by family members or domestic servants or the care of non-institutionalized persons by a surrogate family member as long as the persons do not represent themselves as, or hold themselves out to be, respiratory therapists.

(6) Any individual who has demonstrated competency in one or more areas covered by this chapter as long as the individual performs only those functions that he or she is qualified by examination to perform. The standards of the National Commission for Certifying Agencies, or its equivalent, shall serve as a standard with

which to evaluate those examinations and examining organizations.

(7) Any person performing respiratory services or care not licensed as a respiratory therapist in accordance with this chapter who is employed in a diagnostic laboratory, physician's office, clinic, or outpatient treatment facility and whose function is to administer treatment or perform diagnostic procedures confined to that laboratory, office, clinic, or outpatient facility under the direction of a licensed physician.

(8) Any respiratory therapy student who performs limited respiratory therapy procedures as an employee of any health care provider organization while enrolled in a respiratory therapy educational program accredited by the Council on Allied Health Education Programs in collaboration with the Committee on Accreditation for Respiratory Care or their successor organizations. The employee shall be designated by title as a student or trainee and shall work under direct supervision.

(9) Any individual employed by a durable medical equipment or home medical equipment company who delivers, sets up, or maintains respiratory equipment, but not including assessment or evaluation of the patient.

(10) Any individual employed as a polysomnographic technologist working in a sleep center or diagnostic sleep clinic.

(11) Any licensed respiratory therapist performing advances in the art and techniques of respiratory therapy learned through special training acceptable to the board.

(Act 2004-518, p. 1038, § 11.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

REFERENCES

ADMINISTRATIVE CODE

19 Ala. Admin. Code 798-X-5-.14, Board of Respiratory Therapy; Licensure: Student Exemption from Licensure While Employed.

19 Ala. Admin. Code 798-X-6-.03, Board of Respiratory Therapy; Standards of Practice: Licensed Respiratory Therapist Title.

§ 34-27B-12. Notice provided to respiratory therapists. Historical Notes

(a) The board shall provide notification to all respiratory therapists employed as such or practicing respiratory therapy in Alabama on May 17, 2004. The notification shall summarize the requirements of this chapter and provide information on procedures for obtaining a license. Publication of the notification shall be accompanied by complying with all of the following requirements:

(1) A letter containing the notice shall be directed to all persons registered or certified by the National Board for Respiratory Care who reside in the State of Alabama, based on the most current mailing list of the National Board for Respiratory Care.

(2) Notice shall be published in all major state trade or professional journals relating to respiratory therapy for not less than three consecutive months.

(3) Notice shall be published in all daily newspapers in this state at least once per month for three consecutive months.

(b) The board shall cause the notices required by this section to commence within 30 days from the effective date of adoption of rules and regulations by the board.
(Act 2004-518, p. 1038, § 12.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

§ 34-27B-13. Rules and regulations. Historical Notes

The board shall promulgate rules necessary to implement and administer the provisions of this chapter. Rules shall be issued pursuant to the Administrative Procedure Act.

(Act 2004-518, p. 1038, § 13.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

§ 34-27B-14. Sunset provision. Historical Notes

The board shall be subject to the Alabama Sunset Law, as provided in Chapter 20, Title 41, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2008, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2004-518, p. 1038, § 14.)

HISTORICAL NOTES

HISTORY

Effective date:

The act which added this section is effective May 17, 2004.

Board Members



ALABAMA STATE BOARD OF RESPIRATORY THERAPY

P.O. Box 241386, Montgomery, AL 36124-1386

Phone: 334-396-2332 Fax: 334-396-2384

Web Site: www.asbtr.alabama.gov

April 16, 2007

Alabama Department of Examiners of Public Accounts
Attn: Ms. Janet L. Berry
Post Office Box 302251
Montgomery, Alabama 36130-2251

Dear Ms. Berry:

The following are the current Board Members for the Alabama State Board of Respiratory Therapy.

Fred Hill, Chair
155 Buena Vista Dr.
Daphne, AL 36526
Term: 08/05/04 to 08/05/08
Position: Respiratory Therapist

Vernon Johnson, Member
1731 East Roy Parker
Ozark, AL 36360
Term: 12/29/06 to 08/05/10
Position: Hospital CEO

Linda Moore, Vice Chair
124 Chevrolet Street
Kinsey, AL 36303
Term: 12/29/06 to 08/05/10
Position: Respiratory Therapist

Ron Stansell, Member
605 County Road 421
Cullman, AL 35057
Term: 12/29/06 to 08/05/10
Position: Respiratory Therapist

William Goetter, M.D., Member
P.O. Box 554
Montrose, AL 36559
Term: 08/05/04 to 08/05/08
Position: Physician

Please notify me if any additional information is required. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paula McCaleb", is written over a horizontal line.

Paula McCaleb
Executive Director

Agency Response to Significant Items

Response to Significant Items

1. The board's rule authorizing a bad check charge is insufficient. Board Rule 798-X-5-.15(2) (e) states that "Statutory charges for returned checks shall be paid by the applicant or licensee." The rule does not state the amount of the charge. **Response:** This item is resolved specifically as follows: 1. At the June 21, 2007 Board Meeting, the board voted to amend Chapter 798-X-5-.15 of the Rules and Regulations as follows:

(e) Statutory charges for returned checks shall be paid by the applicant or licensee within ten business days from receipt of notice to remit full payment pursuant to Ala. Code § 13A-9-13.1 (b) (2) and pay the maximum fee allowed by Ala. Code § 8-8-15.

The board was made aware through discussions with other agencies that this particular finding was occurring commonly now (even with long standing agencies) and although the board's rule did allow for statutory charges, the board amended the rule to include the specific statute as advised by the Board of Examiners.

2. The board has never charged a fee for returned checks to date and therefore, this rule has been adequate for board purposes.

2. The board has not resolved complaints in a timely manner. Of the eleven complaints filed since May of 2006, none have been resolved. In August, 2006, the board approved the hiring of an investigator, but a change in legal counsel has further delayed any actions to resolve complaints. **Response:** The board has currently resolved seven cases (five on June 21, 2007). Also, the board now has consistent representation from the Attorney General's Office and the Investigator has been trained. Therefore, this finding (which is common for newly established boards during the hiring and training of investigators and legal counsel) has been resolved with the existing cases. The board will work to ensure that future complaints are resolved in a timely manner, while also assuring that investigations are conducted thoroughly.

3. A provision in the board's law governing transfer of surplus balances to the state's General Fund is too vague. The *Code of Alabama 1975*, Section 34-27B-6 provides that, "After the first three fiscal years from May 17, 2004, if a surplus of funds exist which is *greater than one year's operating expense*, the funds shall be distributed to the General Fund." The operating expense varies each year, and the statute does not state which year's expense applies (past year, present year, average over a number of years, etc.) **Response:** The Board requests the Joint Interim Sunset Committee's help in resolving this finding by including revised language in sunset legislation. The board receives the majority of its income once every two years from license renewal fees, but must utilize these funds over a two year period until the next renewal. One year's operating expense is insufficient to continue the program due to our biennial renewal cycle.